

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

Draft Staff Report

Proposed Amendments to:

Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities

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EXECUTIVE SUMMARY

The proposed amendments to Rule (PAR) 1403 – Asbestos Emissions from Demolition/Renovation Activities, are designed to clarify rule intent and ease enforcement of the rule's requirements, and improve overall rule effectiveness. The proposed changes will facilitate the compliance for contractors and others who work with asbestos.

Due to the fact that the proposed amendments will not change the economic impacts of the rule, no socioeconomic assessment was performed. In addition, the amendments are not expected to significantly affect either emission limitations or air quality. Staff has reviewed the proposed amendments and determined that the project is exempt from the requirements of the California Environmental Quality Act (CEQA). Staff is seeking comment relative to these determinations.

REGULATORY BACKGROUND

Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities, was adopted by the AQMD's Governing Board on October 6, 1989, to limit asbestos emissions from building demolition and renovation activities, including the removal and associated disturbance of asbestos-containing materials, as well as the storage and disposal of asbestos-containing waste material (ACWM) generated or handled by these activities. The Environmental Protection Agency (EPA) promulgated emission requirements for asbestos April 5, 1984 (49 FR 13661) as part of the National Emission Standards for Hazardous Air Pollutants (NESHAP) program (40 Code of Federal Regulation (CFR), Part 61, Subpart M) under section 112 of the Clean Air Act (CAA). The SCAQMD has been delegated authority by the EPA to implement Part 61 which is accomplished through the adoption of and periodic amendments to Regulation X – National Emission Standards for Hazardous Air Pollutants. Delegated authorities have the option of adopting and enforcing stricter regulation.

EPA revised the NESHAP for asbestos on November 20, 1990 (55FR 48406). Rule 1403 was amended April 8, 1994 to make it consistent with the revised NESHAP for asbestos, which was adopted by references into Regulation X on October 4, 1991. The 1994 amendments to Rule 1403 also updated language for consistency with other District rules.

PURPOSE AND APPLICABILITY

The purposed of this rule amendment is to clarify language to assist with implementation of the rule. Rule 1403 specifies work practice requirements for building demolition and renovation activities in order to reduce emissions of asbestos, a toxic air contaminant.

LEGAL AUTHORITY

The AQMD obtains authority to adopt, amend, or repeal rules and regulations from Health and Safety Code §§39002, 39650 et seq., 39666, 40000, 40001, 40440, 40725 through 40728, 41508, and 41700.

AFFECTED INDUSTRY

The rule covers demolition and renovation activities of buildings or ships, and waste sites. The rule does not apply to owner-occupants or residential single-unit dwellings who personally conduct the renovation activity at the dwelling.

SUMMARY OF PROPOSED RULE AMENDMENTS

The proposed amendments to Rule 1403 clarify language to assist operators in complying with the rule's requirements. Two definitions are proposed for addition in subdivision (c) regarding language proposed in subparagraph (d)(1)(I) pertaining to on-site storage of asbestos-containing waste materials. The definitions are: "enclosed storage area", and "locked." Language has been proposed to clarify the term "emergency renovation" to indicate that an economic burden does not alone constitute an "emergency". The economic burden must be accompanied by a sudden, unexpected event such as non-routine failures of equipment, or earthquake or fire damage. This mirrors the Federal NESHAP definition of an "emergency renovation operation." Finally, the definition of "resilient floor covering" is proposed to state this definition does not include glue or mastic used to attach the resilient floor covering to a surface.

The provisions covering the facility survey (clause (d)(1)(A)(ii)) have been more clearly specified so there is no misunderstanding as to the thoroughness that is expected in the survey. Invasive examination of all materials includes such steps as pulling up carpeting and even removing flooring materials down to the joist or stud-level. Another change to this subparagraph involves the correction of a typographical error which references a paragraph that does not exist. A new sub-clause has been added to clarify that the survey must contain a general description of the condition of the facility such as fire or structural damage. Clarifying language is proposed for subclause (d)(1)(A)(IV) to include a sketch of where samples are collected in the survey reports.

Clause (d)(1)(B)(v) is clarified by restructuring and the removal of a comma and the addition of a semicolon to stress that an unreasonable financial burden is not a stand-alone justification for emergency renovation activities. Such burden must be accompanied by a sudden, unexpected event.

The proposal includes removing language in subparagraph (d)(1)(E) for clarity as it pertains to a past compliance date. The requirement is merely stated and the date for compliance, August 12, 1994, has been removed. Also, an erroneous reference is proposed for removal in subparagraph (d)(1)(F).

Subparagraph (f)(2)(B) has the word “completed” added to describe the waste shipment record that is to accompany shipment of asbestos-containing waste materials (ACWM) at off-sire facilities. Paragraph (h)(1) is corrected to reference the correct CFR document, as the number currently listed in the rule does not exist.

Other changes have been proposed for clauses (d)(1)(H), (I), and (J) with language restructured and/or added for clarity. The same type of changes have been proposed for subdivisions (e), (f), (g), (h), and (i). Typographical corrections have been made to subparagraph (g)(1)(B) and paragraphs (c)(38), and (j)(5).

EFFECT ON EMISSIONS

Since the proposed language changes are clarifying in nature and deemed administrative changes, there is no anticipated effect on emissions.

COMPARATIVE ANALYSIS

No comparative analysis is necessary. Health and Safety Code § 40727.2 states that a comparative analysis is not required if the proposed amended rule “ does not impose a new emission limit or standard.”

DRAFT FINDINGS

Before adopting, amending or repealing a rule, the AQMD shall make findings of necessity, authority, clarity, consistency, non-duplication and reference, as defined in Health and Safety Code § 40727, and determine that there is a problem that the proposed rule will alleviate, as required by Health and Safety Code § 40001(c).

The draft findings are as follows:

Necessity - The AQMD Governing Board finds and determines that Proposed Amended Rule 1403 – Asbestos Emission from Demolition/Renovation Activities, is necessary in order to clarify implementation issues and improve rule effectiveness with the current rule.

Authority - The AQMD Governing Board obtains its authority to adopt, amend or repeal rules and regulations from Health and Safety Code §§40000, 40440, 40463, and 40725 through 40728.

Clarity - The AQMD Governing Board finds and determines that Proposed Amended Rule 1403, as written, takes into consideration public comments from persons affected by the rule, and as a result, can be easily understood by persons directly affected by it.

Consistency – The AQMD Governing Board finds and determines that Proposed Amended Rule 1403 is in accordance with, and not in conflict with or contradictory to, existing statutes, court decisions, or federal or state regulations.

Non-Duplication – The AQMD Governing Board has determined that Proposed Amended Rule 1403 does not impose the same requirements as any existing state or federal regulation, and the proposed rule is necessary and proper to execute the powers and duties granted to, and imposed on the AQMD.

Reference - In adopting these proposed amendments, the AQMD Governing Board references the following statutes which AQMD hereby implements, interprets or makes specific: Health and Safety Code §§ 39002, 39650 et seq., 39666, 40000, 40001, 40440, 40725 through 40728, 41508, and 41700.

Problem - The AQMD Governing Board determines that there is a problem that Proposed Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities, will alleviate namely the proposed amendments will clarify the intent and assist with the implementation of asbestos removal and disposal from demolition/renovation activities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to the California Environmental Quality Act (CEQA) and AQMD Rule 110, appropriate documentation will be prepared to analyze any potential adverse environmental impacts associated with the proposed amendments to Rule 1403. Comments received at the public workshop and CEQA scoping meeting will be considered when preparing the CEQA document.

SOCIOECONOMIC ASSESSMENT

No socioeconomic impact assessment was performed for the proposed amendments, because the proposed amendments are administrative in nature and will not result in cost impacts.